

IN THE UNITED STATES COAST GUARD  
COURT OF CRIMINAL APPEALS

UNITED STATES,  
Petitioner,

v.

CAPT Christine N. CUTTER,  
U.S. Coast Guard,  
Military Judge

William R. BISEL,  
Aviation Maintenance Technician  
Third Class (E-4)  
U.S. Coast Guard,  
Real Party in Interest

30 January 2014

PETITION FOR EXTRAORDINARY  
RELIEF IN THE NATURE OF A  
WRIT OF MANDAMUS, FILED  
26 NOVEMBER 2013

MISC. DOCKET NO. 001-14

ORDER – PANEL TWENTY

Petitioner United States, prosecuting the above-named real party in interest at court-martial, seeks an order directing Respondent to dismiss Charge I Specification 1, so that the United States may seek interlocutory review of Respondent's ruling concerning that specification under Article 62.

The sole specification of Charge I, under Article 120, Uniform Code of Military Justice, appears in general form to allege rape. *See* Manual for Courts-Martial, United States (2008 ed.), Pt. IV, ¶ 45.g.(1)(a)(iii). Petitioner asserts that the specification does allege rape. However, Respondent ruled it is defective for alleging rape, but it does allege aggravated sexual contact, and stated that she would instruct the members accordingly. (R<sub>3</sub> at 14, 16.) Respondent declined three times to dismiss the specification. (R<sub>3</sub> at 14-16.)

The Supreme Court has described a writ such as that requested by petitioner as among “the most potent weapons in the judicial arsenal.” *Cheney v. U.S. Dist. Court for*

*D.C.*, 542 U.S. 367, 380 (2004) (quoting *Will v. United States*, 389 U.S. 90, 107 (1967)) (internal quotation marks omitted). “[O]nly exceptional circumstances amounting to a judicial usurpation of power, or a clear abuse of discretion” would justify its issuance. *Id.* (citations and internal quotation marks omitted).

Petitioner has not established judicial usurpation of power, abuse of discretion, or any error at all in Respondent’s declining to dismiss the specification. We do not discern any basis for this Court to order Respondent to dismiss the specification.

Accordingly, it is, by the Court, this 30th day of January, 2014,

ORDERED:

That the Petition for Extraordinary Relief is dismissed.



For the Court,

Joseph M. Guyton  
Clerk of the Court

Copy: Chief, Office of Military Justice  
Appellate Government Counsel  
Chief, Legal and Defense Services